

**IN THE UNITED STATES DISTRICT COURT FOR
THE EASTERN DISTRICT OF MISSOURI
EASTERN DISTRICT**

TNT AMUSEMENTS, INC., d/b/a)
PLAY-MOR COIN-OP,)
)
Plaintiff,)
)
v.)
)
TORCH ELECTRONICS, LLC,)
STEVEN MILTENBERGER, and)
SONDRA MILTENBERGER)
)
Defendants.)

Case No. 4:23-cv-00330-SRW

DEFENDANTS' PARTIAL MOTION TO DISMISS

Defendants Torch Electronics, LLC, Steven Miltenberger, and Sondra Miltenberger, pursuant to Federal Rules of Civil Procedure 12(b)(6) and 9(b), respectfully move the Court to dismiss Counts Two, Three, Four, Five, and Six of Plaintiff TNT Amusements, Inc., d/b/a Play-mor Coin-op's Complaint for failure to state a claim. Count Two fails to state a Missouri common law of unfair competition claim, and Counts Three, Four, Five, and Six fail to state civil RICO claims under 18 U.S.C. § 1964(c). Pursuant to Rule 12(b)(6) and 12(f), Defendants further respectfully move the Court to strike or dismiss any remaining allegations or claims in Count Seven (for declaratory relief) concerning civil RICO and Missouri common law of unfair competition. Defendants further request any additional relief the Court deems just and proper.

In support of this Motion, Defendants respectfully incorporate their contemporaneously filed Memorandum in Support.

WHEREFORE, Defendants Torch Electronics, LLC, Steven Miltenberger, and Sondra Miltenberger respectfully move the Court to dismiss Counts Two, Three, Four, Five, and Six of Plaintiff's Complaint, as well as strike or dismiss any related claims or averments in Count Seven

purporting to seek declaratory relief based on Counts Two through Six, for failure to state a claim upon which relief may be granted, and for any further relief the Court may deem just and proper.

Dated: April 21, 2023

Respectfully submitted,

GRAVES GARRETT LLC

By: /s/ Todd P. Graves

Todd P. Graves #41319 (MO)

J. Aaron Craig #62041 (MO)

1100 Main Street, Suite 2700

Kansas City, MO 64105

Phone: (816) 256-3181

Fax: (816) 256-5958

tgraves@gravesgarrett.com

acraig@gravesgarrett.com

**Attorneys for Defendants Torch Electronics,
LLC, Steven Miltenberger, and Sondra
Miltenberger**

CERTIFICATE OF SERVICE

I hereby certify that on April 21, 2023, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send a notice of electronic filing to all counsel of record.

/s/ Todd P. Graves
Attorneys for Defendants Torch
Electronics, LLC, Steven Miltenberger, and
Sondra Miltenberger